



Federal Communications Commission
Washington, D.C. 20554

January 9, 2017

DA 16-1372

Small Entity Compliance Guide

Promoting Diversification of Ownership in the Broadcasting Services

FCC 16-1
MB Docket Nos. 07-294 and 10-103
MD Docket No. 10-234
Released: January 20, 2016

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the new rules adopted in the above-referenced FCC rulemaking dockets. This Guide is not intended to replace the rules and, therefore, final authority rests solely with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide may, perhaps, not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

1-888-CALL-FCC (1-888-225-5322)

TTY: 1-888-TELL-FCC (1-888-835-5322)

Fax: 1-866-418-0232

I. OBJECTIVES OF THE PROCEEDING

In the *Report and Order*, *Second Report and Order*, and *Order on Reconsideration (Report and Order)* in MB Docket Nos. 07-294, 10-103, and MD Docket No. 10-234, released January 20, 2016,¹ the Commission revised FCC Form 2100, Schedule 323, Ownership Report for Commercial Broadcast Stations (formerly, FCC Form 323), and FCC Form 2100, Schedule 323-E, Ownership Report for Noncommercial Broadcast Stations (formerly, FCC Form 323-E). The improvements that the Commission adopted in the *Report and Order* will advance the Commission's commitment to increasing the comprehensiveness and reliability of the ownership data collected on the forms, while reducing certain filing burdens on broadcasters. Such data are essential to enable more effective analysis of broadcast ownership trends in support of policy initiatives promoting diversity of ownership in broadcasting.

II. COMPLIANCE REQUIREMENTS

1. Who is required to file Broadcast Ownership Reports?

Licensees of commercial and noncommercial AM, FM, and television broadcast stations, as well as licensees of Class A television and low-power television (LPTV) stations, are required to file Ownership Reports (47 CFR §§ 73.3615, 74.797). In cases where the licensee or permittee is part of an organizational structure that includes a holding company or another form of indirect ownership, a separate Ownership Report must be filed for each entity in the organizational structure that holds an *attributable interest* in the licensee or permittee (47 CFR §§ 73.3615, 74.797).

An *attributable interest* is an ownership interest in or relationship to a licensee or permittee that gives the interest holder a certain degree of influence or control over the licensee or permittee as defined in the Commission's rules (47 CFR § 73.3555). For guidance on how to identify attributable interests, commercial broadcasters should consult the instructions for FCC Form 2100, Schedule 323, and noncommercial educational broadcasters should consult the instructions for FCC Form 2100, Schedule 323-E. Previously, the Commission released drafts of the revised forms, and they may be found in Appendices D and E of the *Report and Order*. The Commission will announce when final versions of these forms are available online and when filers should begin using the revised forms.

2. When are Broadcast Ownership Reports due?

Biennial Ownership Reports: Licensees of commercial and noncommercial AM, FM, and TV broadcast stations and entities that hold an attributable interest in such stations, as well as licensees of Class A TV and LPTV stations and entities that hold an attributable interest in such stations, must file Biennial Ownership Reports by December 1 in all odd-numbered years (e.g., 2017, 2019, 2021, etc.) (47 CFR § 73.3615(a), (d); 47 CFR § 74.797).

Non-Biennial Ownership Reports: Licensees and permittees of commercial and noncommercial AM, FM, and TV broadcast stations and entities that hold an attributable interest in such stations are also required to file Non-Biennial Ownership Reports (i) within 30 days of consummating an authorized transfer or assignment of a permit or license; (ii) within 30 days of the date that the Commission grants an application by the permittee for an original construction permit; and (iii) on the date that the permittee applies for a station license in order to update or certify the continuing accuracy and completeness of the previously filed report (47 CFR § 73.3615(b)-(c), (e)-(f)).

¹ *Promoting Diversification of Ownership in the Broadcasting Services et al.*, Report and Order, Second Report and Order, and Order on Reconsideration, 31 FCC Rcd 398 (2016).

3. What information does the FCC require on Broadcast Ownership Reports?

Broadcast Ownership Reports call for information about the ownership of a broadcast licensee, including the identity of owners and holders of attributable interests; the race, ethnicity, and gender of individuals holding attributable interests, including officers and directors; and information about other attributable broadcast and daily newspaper interests held by owners and attributable interest holders.

Biennial Ownership Reports: Each Biennial Ownership Report for a commercial broadcast station must provide all information required by, and comply with all requirements set forth in, the version of FCC Form 2100, Schedule 323 (including all instructions to the form and schedule) that is current on October 1 of the year in which the Biennial Ownership Report is filed (47 CFR § 73.3615(a); 47 CFR § 74.797). Similarly, each Biennial Ownership Report for a noncommercial educational broadcast station must provide all information required by, and comply with all requirements set forth in, the version of FCC Form 2100, Schedule 323-E (including all instructions to the form and schedule) that is current on October 1 of the year in which the Biennial Ownership Report is filed (47 CFR § 73.3615(d)). The information provided on each Biennial Ownership Report must be current as of October 1 of the year in which the Biennial Ownership Report is filed (47 CFR § 73.3615(a), (d); 47 CFR § 74.797).

Non-Biennial Ownership Reports: Each Non-Biennial Ownership Report for a commercial broadcast station must provide all information required by, and comply with all requirements set forth in, the version of FCC Form 2100, Schedule 323 (including all instructions to the form and schedule) that is current on the date on which the Non-Biennial Ownership Report is filed (47 CFR § 73.3615(b)-(c)). Similarly, each Non-Biennial Ownership Report for a noncommercial educational broadcast station must provide all information required by, and comply with all requirements set forth in, the version of FCC Form 2100, Schedule 323-E (including all instructions to the form and schedule) that is current on the date on which the Non-Biennial Ownership Report is filed (47 CFR § 73.3615(e)-(f)).

PDF versions of current FCC forms and their instructions are available via the FCC forms webpage, at <https://www.fcc.gov/licensing-databases/forms>. As stated above, the Commission will announce when final versions of FCC Form 2100, Schedule 323 and FCC Form 2100, Schedule 323-E—the revised versions of FCC Form 323 and FCC Form 323-E—are available online.

4. What new reporting requirements did the Commission adopt in the *Report and Order*?

Before reviewing the new reporting requirements, it is important to understand the following terms and definitions:

The *Commission Registration System (CORES)* is a web-based, password-protected, registration system that assigns FCC Registration Numbers (FRNs) to entities and individuals.

A *CORES FRN* is a unique 10-digit FRN that is assigned by CORES to an entity or individual and that requires submission of the Taxpayer Identification Number or Social Security Number of the entity or individual during the CORES registration process.

An *FCC Registration Number (FRN)* is an identifying number that is assigned to those doing business with the FCC.

A *Restricted Use FRN* is an FRN that is assigned by CORES to an individual and that requires submission of the individual's full name, residential address, date of birth, and only the last four digits of his or her Social Security Number during the CORES registration process. The FCC adopted the Restricted Use FRN in the *Report and Order* in order to provide an alternative mechanism within the CORES that will allow an individual to obtain a unique FRN without having to submit his or her full Social Security Number to the Commission. Restricted Use FRNs may be used only to identify individuals (not entities) reported as attributable interest holders on Broadcast Ownership Reports. Restricted Use FRNs may not be used to identify entities.

A *Special Use FRN* is a number that is generated automatically by clicking a button and without registration in CORES. Unlike the CORES FRN and the Restricted Use FRN, the Special Use FRN is not associated with any information that allows the FCC to uniquely identify the person for whom the number was created.

A *Taxpayer Identification Number (TIN)* is a unique identifier assigned to an entity for tax payment purposes. A TIN may either be a Social Security Number assigned to an individual by the Social Security Administration or an employer identification number assigned to a business or organization by the Internal Revenue Service.

Use of FRNs: **The FCC no longer allows filers to use Special Use FRNs on Ownership Reports, except in limited cases, and instead requires filers to report an FRN generated by CORES—either a traditional CORES FRN or a Restricted Use FRN—for each attributable interest holder reported on FCC Form 2100, Schedule 323 (formerly, FCC Form 323).** Special Use FRNs may be used where an individual still refuses to provide a means of reporting a valid CORES FRN or Restricted Use FRN after the filer has used reasonable and good-faith efforts to obtain a CORES FRN or Restricted Use FRN from or on behalf of the individual. To demonstrate that they have made reasonable and good-faith efforts, filers must show that they informed the individual of his or her obligation to obtain a valid CORES FRN or Restricted Use FRN and the risk of FCC enforcement action against the individual for failing to do so.

Uniform Requirements for Noncommercial Educational (NCE) Stations: The FCC has prescribed revisions to FCC Form 2100, Schedule 323-E (formerly, FCC Form 323-E) that conform the reporting requirements for NCE stations more closely to those for commercial stations. Under the revised reporting requirements, NCE filers must identify the race, gender, and ethnicity of the attributable interest holders that filers report on Form 2100, Schedule 323-E, and filers are also required to use FRNs on Ownership Reports as described above for commercial broadcasters. In addition, Biennial Ownership Reports for NCE stations must be filed by the same deadline as Biennial Ownership Reports for commercial broadcast stations, as noted above and discussed below. A non-profit entity that holds a commercial license may use Form 2100, Schedule 323-E, instead of Schedule 323.

Longer Filing Window for Biennial Ownership Reports and New Biennial Deadline for NCE filers: The FCC has moved the due date from November 1 to December 1 for Biennial Ownership Reports for commercial broadcast stations. Filers may submit their Biennial Ownership Reports any time from October 1 through December 1 of the year that such reports are due. Filers must continue to provide biennial ownership information that is current as of October 1 of the filing year (47 CFR § 73.3615(a); 47 CFR § 74.797). NCE broadcasters must submit their Biennial Ownership Reports in accordance with the same “as of” date and filing deadline applicable to commercial broadcasters. Specifically, they must submit their Biennial Ownership Reports no later December 1 of the year that such reports are due, and filers must provide information that is current as of October 1 of the filing year (47 CFR § 73.3615(d)).

Additional Modifications that Reduce Filing Burdens and Improve Data Integrity: In addition to the changes discussed above, the FCC also adopted additional improvements to FCC Form 2100, Schedule 323 (formerly, FCC Form 323) and FCC Form 2100, Schedule 323-E (formerly, FCC Form 323-E) that will greatly reduce the burden on filers, significantly streamline the filing process, and increase the quality and usability of the broadcast ownership data submitted to the FCC. These changes include reducing the number of required filings for parent entities with multiple licensee subsidiaries, allowing parties to identify Tribal Entities, and streamlining the reporting of other broadcast and daily newspaper interests, among other things.

The instructions for Form 2100, Schedule 323 and Form 2100, Schedule 323-E provide detailed information about the revised reporting requirements for Broadcast Ownership Reports. As stated above,

drafts of the revised forms may be found in Appendices D and E of the *Report and Order*. The FCC will announce when final versions of these forms are available online and when filers should begin using the revised forms.

As noted above, PDF versions of current FCC forms and their instructions are available via the FCC forms webpage, at <https://www.fcc.gov/licensing-databases/forms>. Filers should review and follow the instructions for the relevant forms when completing Broadcast Ownership Reports.

III. RECORDKEEPING

A copy of all ownership and supplemental ownership reports and related material must be maintained and made available for public inspection as required by the Commission's local public inspection file rules for broadcast stations (47 CFR §§ 73.3615(g), 73.3526, 73.3527).

IV. INTERNET LINKS

Report and Order

- <https://www.fcc.gov/document/fcc-adopts-order-improve-collection-broadcast-ownership-data>

FCC Forms

- <https://www.fcc.gov/licensing-databases/forms>